

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, September 21, 1999
Tuesday, 9:00 A.M.

The City Council met in regular session with Mayor Knight in the Chair. Council Members Cole, Gale, Lambke, Martz, Pisciotte, Rogers; present.

Chris Cherches, City Manager; Gary Rebenstorf, Director of Law; Pat Burnett, City Clerk; present.

The invocation was given by Mayor Knight.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

Minutes -approved

The minutes of the regular meeting of September 14, 1999, were approved 7 to 0.

AWARDS AND PRESENTATIONS

Proclamations

The previously approved Proclamations were presented.

UNFINISHED BUSINESS**CONDEMNATION****REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURE - 1812 HEISERMAN.**
(District VI)

Kurt Schroeder

Superintendent of Central Inspection reviewed the Item.

Agenda Report No. 99-796 A.

This property was before the BCSA on May 3, 1999. No one was present to represent the property, and the BCSA recommended 10 days to start demolition and an additional 10 days to complete.

Council considered the case at the July 13, 1999 Hearing and deferred the hearing for 30 days to allow Nations Bank to report with a decision about the future of the property.

On August 17, 1999, Council again considered this case. Nations Bank outlined plans to immediately complete foreclosure and complete exterior repairs within 60 days after foreclosure.

Council voted to allow an additional 30 days for exterior repairs, with the case returning to Council at the end of 30 days.

No repairs have been made. The structure is open. The premises are maintained. WPD has received complaints from the neighbors that the front door is continually found open. On September 7, 1999, OCI received a copy of a motion filed in District Court, by the bank, praying for authorization to make necessary repairs to the property.

The taxes are current.

The owner has been notified of the date and time of this Hearing.

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Mayor Knight

Mayor Knight inquired whether anyone wished to be heard.

Jeff Van Zant

Jeff Van Zant, Bank of America, said the bank has filed a petition which is to be answered today. The petition will allow the Bank to obtain an order of the Court. The Bank should obtain title to the property within three weeks. Major repairs cannot commence until the Bank obtains title to the property.

The Bank intends to resell the property.

Motion --
-- carried

Cole moved that the demolition process proceed and, as the Bank has new information, communication be made from the Bank to OCI and Council Member Cole. Motion carried 7 to 0.

NEW BUSINESS

AIRXCEL TAX EXEMPT PUBLIC HEARING AND TAX EXEMPTION REQUEST - AIRXCEL, INC. (District VI)

Allen Bell

Financial Projects Director reviewed the Item.

Agenda Report No. 99-924.

Airxcel, Inc., formerly RV Holdings Corporation, located at 3050 North St. Francis in north central Wichita, was formed in 1991. Since 1991, Airxcel's growth includes the acquisition of Carter Shades, Inc., Crispaire Corporation, and the Suburban Manufacturing Company. Airxcel is currently planning an additional expansion of their existing facility, including construction of a new manufacturing facility and the purchase of new equipment. Airxcel is now requesting approval of an Economic Development Tax Exemption on the new facility and manufacturing equipment, in conjunction with the expansion project.

Airxcel designs and manufactures air conditioners, furnaces, water heaters, and cooking appliances for the recreation vehicle industry. Airxcel products are supplied to several of the world's largest RV original equipment manufacturers, marketing the products under the "Coleman" brand name. In addition to RV appliances, Airxcel manufactures wall-mount air conditioners and heat pumps for the telecommunication industry. Also, Airxcel is the nation's largest provider of environmental control units used for various applications. Airxcel currently has over 250 employees at the Wichita facility and plans to create 35 new jobs over the next five years as a result of the 1999 expansion project. The new \$1,419,500 expansion will include construction of a new 52,870 sq. ft. manufacturing facility located at the existing site, and acquisition of new manufacturing equipment. Under the City's Business Incentives Policy, Airxcel is eligible for the following:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
50.00%	New Job Creation:	Airxcel will create at least 35 new full-time jobs.
<u>20.00%</u>	Capital Improvements:	Airxcel will invest approximately \$1,419,500
70.00%	Total Business Incentives	
50.00%	TOTAL ELIGIBLE - BUSINESS INCENTIVES (Max. allowed is 50%)	
50.00%	Export Premium:	Airxcel exports 99% of its product outside Kansas.
<u>50.00%</u>	TOTAL ELIGIBLE FOR EXPORT PREMIUM (Maximum allowed is 50%)	
100.00%	TOTAL EXEMPTION ALLOWED UNDER BUSINESS INCENTIVE POLICY	

Airxcel is eligible for a 100% tax exemption for a five-plus-five-year term on new real and personal property. A notice of public hearing has been published. Airxcel has agreed to comply with the conditions set forth in the 1999 revised Business Incentive Policy.

The estimated first year taxes on the proposed \$1,419,500 project under the 1999 mill levy on property within the Wichita City limits would be \$37,237. The existing building and personal property will stay on the property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - \$10,836; County/State - \$10,995; and USD 259 - \$15,406. Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios of 1.31 for the City of Wichita; 1.16 for Sedgwick County; 1.00 for USD 259 and 3.34 for the State of Kansas.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard and no one appeared.

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Motion --

Knight moved that the public hearing be closed; a 100% tax exemption on real and personal property improvements for a five-plus-five-year term be approved; the Ordinance be placed on first reading; and the necessary signatures be authorized. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article 11, Section 13, of the Kansas Constitution: providing the terms and conditions for ad valorem tax exemption; and describing the property of Airxcel, Inc., so exempted, introduced and under the rules laid over.

VIA CHRISTI – IRB

REINSTATEMENT OF LETTER OF INTENT AND INCREASE IN AMOUNT FOR HOSPITAL FACILITIES IMPROVEMENT AND REFUNDING REVENUE BONDS - VIA CHRISTI HEALTH SYSTEM, INC. (Districts II, III, and VI)

Allen Bell

Financial Projects Director reviewed the Item.

Agenda Report No. 99-925.

On January 7, 1997, City Council approved the issuance of a Letter of Intent for Hospital Facilities Improvement and Refunding Revenue Bonds, to Via Christi Health System, Inc. in an amount not-to-exceed \$27.5 million, for certain capital projects, and in an amount not-to- exceed \$300.0 million to refund current existing debt.

Via Christi Health System was formed in October of 1995 through the consolidation of the St. Francis Ministry Corporation of the Sisters of Sorrowful Mothers and the CSJ Health System of Wichita of the sisters of St. Joseph of Wichita. During that same period, St. Francis Regional Medical Center and St. Joseph Medical Center were consolidated to form Via Christi Regional Medical Center. Via Christi Health System headquarters is located in Wichita at 929 N. St. Francis. Via Christi Health System operates and manages five hospitals on six campuses, a rehabilitation center, five senior care facilities and 18 physician practices in three states.

Bond proceeds will be used to refund all outstanding bonds issued by the City for the benefit of CSJ Health System, Inc. (to include, but not limited to, St. Joseph Medical Center) and St. Francis Regional Medical Center, Inc.; and, to provide financing for capital projects originally estimated at \$27.5 million, which includes acquisition of Via Christi Rehabilitation Center; purchase of major medical equipment; and remodeling and renovation of the St. Francis and St. Joseph Campuses.

The January 7, 1997 Letter of Intent expired July 7, 1997. Via Christi is now prepared to proceed and is requesting the original Letter of Intent be reinstated for a six-month period, expiring March 21, 1999. Via Christi is also requesting the new money portion of the original Letter of Intent be increased from \$27.5 million to \$47.5 million to cover underestimated costs for technology and previously unidentified requirements for improvement.

Via Christi agrees to maintain an approved EEO/AA Plan on file with the City's Office of Civil Rights and Services.

Via Christi agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. Via Christi is not requesting a tax exemption.

Bond documents needed for the issuance of the bonds will be prepared by the law firm of Hinkle Elkouri, bond counsel for the project.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard and no one appeared.

Motion --

Pisciotta moved that the letter of intent for six-month period be reinstated; an increase in the total amount of the bonds be approved; and the necessary signatures be authorized. Motion carried 7 to 0.

-- carried

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SANITARY SEWER

SANITARY SEWER TO SERVE TWO UNPLATTED TRACTS NORTH OF CENTRAL, WEST OF 119TH STREET WEST. (District V)

Mike Lindebak

City Engineer reviewed the Item.

Agenda Report No. 99-926.

A Petition has been submitted for a sanitary sewer to serve two homes that front on 119th Street West, north of Central. The Petition has been signed by two of four owners of 50% of the improvement district area. CPO Council 5 considered the project on August 11, 1999. The Council voted 6-0 to recommend approval.

The Health Department reports that there have been complaints about odor problems from substandard septic systems.

The estimated project cost is \$25,000, with each home being assessed an equal share of \$12,500. The funding source is special assessments.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard.

Donna Ward

Donna Ward said additional neighbors to the south and north had not been contacted and were not included in the improvement district. The estimated cost should also be changed to \$40,000.

Mike Lindebak

City Engineer said Staff had been requested to find out the cost to serve properties to the south. An estimate was prepared but Staff had been advised that there was no interest from the people in the south to have service at this time.

Keith Sayler

Keith Sayler said his septic system is now inadequate. He had requested new laterals but the permit was denied by the sanitary system because his property was within a short distance of the City's sewer system.

Joyce Sayler

Joyce Sayler said the Health Department had informed them that if the City put in a sewer the Saylers would have to agree to "hook up."

Mrs. Sayler said a three week deferral would not be a problem.

Lewis Hamilton

Lewis Hamilton spoke of concern regarding the two lifts between the improvement district and the sewer, and the possibility of power outages and sewage backup.

Mike Lindebak

City Engineer explained that there are generators in case of electric outages and that Mr. Hamilton's property is twenty to thirty feet higher than the lift station.

Council Member Martz

Council Member Martz also explained that a flapper valve can be installed to prevent sewage backup.

Mike Ternes

Mike Ternes, owner of property to the south of the improvement district, said he definitely did not want or need and could not afford a sewer line.

Motion -- carried

Martz moved that this Item be deferred three weeks. Motion carried 7 to 0.

CODES APPEAL

APPEAL OF BOARD OF CODES STANDARDS AND APPEALS DECISION - 1205 NORTH BITTING. (District VI)

Kurt Schroeder

Superintendent of Central Inspection reviewed the Item.

Agenda Report No. 99-927.

Mr. William T. Davitt, represented by attorney Cortland E. Berry, is appealing the August 2 action of the Board of Code Standards and Appeals (BCSA) which declared the structure at 1205 North Bitting as "Unfit for Habitation", and ordered Mr. Davitt to vacate, demolish and remove the structure within 60 days of August 2, 1999. Mr. Davitt has resided in this structure for at least 20 years, and is still living in the structure as his main residence today.

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Mr. Berry filed a written request for an appeal hearing on August 11, 1999. In his request, Mr. Berry also asked that the City Council conduct its hearing in late September.

A Minimum Housing Code Case was first initiated on 1205 N. Bitting in July 1978. Between July 1978 and July 1990, numerous Violation Notices were issued to Teresa Davitt and William T. Davitt, outlining significant housing code violations on the structure. The property owners agreed on several occasions to make required repairs, but never did. Several attempts were made by City staff during the 1980's to provide the Davitts with financial assistance for repairs, but Teresa Davitt did not want such assistance. Ms. Teresa Davitt died in 1985.

In July of 1990, a criminal citation was issued to owner William T. Davitt in regard to the condition of the roof and the porches, which were in a severe state of disrepair and considered to be dangerous. Mr. Davitt was convicted in Municipal Court of both charges on November 4, 1991, and was sentenced to a fine of \$150 per count and 10 days in jail per count. The sentence was suspended and the defendant was to remedy the defects and bring the property into compliance. Mr. Davitt appealed the case to Sedgwick County District Court. During this time period, further attempts were made by Mr. Davitt and staff to obtain financial assistance through Mennonite Housing and the City. In 1992, the estimated costs for minimum code repairs was over \$40,000, however, and financial assistance was not obtained by Mr. Davitt. On July 17, 1992, the defendant pled to the court charges and received the same sentence imposed in Municipal Court. Mr. Davitt was placed on one-year probation and was to repair the property and bring it into compliance. This probationary period was later extended by an additional 90 days. The property was never brought into compliance, however, and the court eventually terminated Mr. Davitt's probation.

Between May 1993 and February 1996, OCI issued a number of revised "Housing Violation Notices" and "Preliminary Condemnation Notices" to Mr. Davitt, but no repairs or corrections were made and the condition of the property steadily declined. On March 12, 1996, a Uniform Criminal Complaint was issued to Mr. Davitt on several charges, including roof, porches, walls, siding, windows and doors, all of which were in a severe state of disrepair.

In July 1996, the Municipal Court Judge ordered Mr. Davitt to permit OCI to inspect the interior of his house at 1205 North Bitting. This was done on August 1, 1996 by Neighborhood Improvement Services (NIS) and OCI staff, who subsequently completed a work write-up and estimate of repair costs to bring the property to minimum code compliance. In August 1996, repairs on the property were estimated at over \$73,000.

Between August 1, 1996 and February 1997, OCI and NIS worked with Mr. Davitt and a variety of other financial rehabilitation assistance providers to put together a workable rehabilitation solution. Providers and potential resources included NIS, Mennonite Housing, the Wichita Weatherization Program, the Sedgwick County Department on Aging, Historic Loan resources and the Wichita Area Builders Association. A number of timber/tree buyers were identified by the Cooperative Extension Service, and a list was provided to Mr. Davitt (estimates of \$4,000 - \$6,000 for some of the trees on the property were made by some providers). NIS and OCI staff also attended Historic Preservation Board meetings with Mr. Davitt to assist him in obtaining relief on requirements to replace the existing large porches with porches of similar size and materials (this property is in the Bitting Historic District). However, Mr. Davitt never followed up on any of the financial assistance offers which were presented, and to staff's knowledge, never even contacted a single timber/tree buyer.

On February 17, 1997, Mr. Davitt pled no contest to the March 12, 1996 Uniform Criminal Complaint charges, and was fined \$500 per count. On February 27, 1997, Mr. Davitt appealed his conviction to the Sedgwick County District Court. Mr. Davitt's appeal was dismissed on November 3, 1997 due to Mr. Davitt's failure to appear in court. Mr. Davitt subsequently appealed the dismissal of his appeal to the Kansas Court of Appeals, which in January of 1999 affirmed the trial court's dismissal of the appeal.

On March 30, 1999, the City's Law Department suggested that OCI proceed with condemnation proceedings against the dangerous property at 1205 North Bitting.

On June 24, 1999, Mr. Davitt was issued notice of a hearing before the BCSA on July 7, 1999, to determine if the property at 1205 North Bitting should be declared "unfit for habitation". Mr. Cortland Berry appeared with Mr. Davitt at the BCSA on July 7, 1999, and requested that the hearing be deferred until the August BCSA meeting. On August 2, 1999, the BCSA conducted its hearing. After reviewing case file records and hearing testimony from staff, Mr. Berry, Mr. Davitt and Mr. John Todd (a friend of Mr. Davitt's), the BCSA took the following actions:

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? Found that the dwelling at 1205 North Bitting is “unfit for habitation” due to existing structural conditions and Title 20 Minimum Housing Code violations which are dangerous and injurious to the health, welfare or safety of the dwelling occupants and to other neighboring dwellings and residents of the City; and/or which have a blighting influence on other properties in the area.

? Found that required repairs and improvements could not be made at a cost of less than two hundred percent of the assessed value of the dwelling as recorded in the County Assessor’s Office at Sedgwick County, Kansas.

? Ordered that the dwelling be vacated, demolished and removed within 60 days of August 2, 1999

The City of Wichita has attempted to bring this property into minimum code compliance for over 20 years. Several court cases have been unsuccessful in achieving required minimum repairs to the structure. Aside from some minor electrical work and some foundation repair performed by Mr. Davitt around 1990, no other repairs have been made to this structure. The structure is now in an extreme state of disrepair, with conditions unsafe to both Mr. Davitt and the neighborhood.

Several concerted attempts have been made to put together a financial loan package for repair of this structure, but due to of Mr. Davitt’s unwillingness to participate and/or the limitations of funding for repairs, no feasible rehabilitation loan package has been assembled.

This severely deteriorated structure has been a concern of the neighborhood for years, and many complaints have been and continue to be received about the condition of this property and its negative effect on surrounding properties.

The current assessed value of the land with improvements is \$17,480 (\$11,880 for land and \$5,600 for the house).

Repair estimates were over \$73,000 three years ago, and the structure has deteriorated substantially since that time.

Current NIS programs can only provide up to \$25,000 in deferred loans and/or grants for code repair items. An additional \$5,000 - \$10,000 in grant or deferred loan monies may still be available from other resources. Due to his income, Mr. Davitt does not qualify for a Historic Loan from the City, and there is presently no deferred loan or grant program available through the Historic Loan Program.

Should the City uphold the decision of the BCSA, the estimated cost of demolishing this structure, if Mr. Davitt fail to do so, is approximately \$4,500.

Mr. Davitt has received all required notices of the BCSA Hearings and this City Council Appeal Hearing. The BCSA has stated its findings of fact and orders in writing as required by Section 20.04.180 of the City Code, and has appropriately notified Mr. Davitt of its findings and orders.

Section 20.04.180 of the City Code states that “If an owner fails to comply with an order to remove or demolish the dwelling, the Superintendent of Central Inspection may cause such dwelling to be removed or demolished.”

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard.

Courtland Berry

Courtland Berry, attorney for Mr. Davit, said reason should prevail and he would like for compassion to prevail.

Mr. Berry said Mr. Davit has lived at this address for years but, because he had been caring for his mother, he had not had time to take care of the property.

The Supreme Court declined a review. The Case was not dismissed due to failure to appear.

Mr. Davit has done everything he could to get materials. He now has materials to do the roof and the porches could be torn down if they are too bad to repair. With materials costing \$5,000 to \$6,000 and labor of \$5,000 to \$7,000, the property could be repaired.

Electrical problems that might be safety concerns had not been pinpointed by the City. The structure is not unsafe for human habitation. The doors and windows are secure.

Mr. Davit is willing to work with OCI and everyone else to get the repairs done.

Council Member Pisciotte momentarily absent.

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John Todd

John Todd, friend of Mr. Davit, asked the Council to consider an alternative to demolition of the house.

An application has been made with Historic Preservation requesting funds for rehabilitation of the house.

Hartwell Engineering made an assessment that the house could be made structurally sound.

Mr. Todd suggested that Mr. Davit be allowed to work with Mennonite Housing for labor to redo the house. There is \$3,000 available for emergency repairs.

Council Member Cole

Council Member Cole said this is the same things the Council has heard for ten years. Mennonite Housing declined to assist in the project. The Historic Preservation Board chose not to spend all of the loan funds on one property.

This request is to begin anew the same process.

Motion --
-- carried

Cole moved that the actions of the Board of Codes Standards and Appeals be upheld, the property be vacated, and the demolition process proceed. Motion carried 7 to 0.

KDOT

PROJECT FUNDING REQUEST FOR TRANSPORTATION ENHANCEMENT (KDOT).

Marvin Krout

Director of Planning reviewed the Item.

Agenda Report No. 99-928.

Transportation Enhancement is a funding category under the Transportation Equity Act for the 21st Century (TEA-21). The Kansas Department of Transportation (KDOT) will receive applications for Enhancement projects from cities and counties throughout Kansas and select those projects that meet KDOT's funding eligibility criteria. The three categories under enhancements are: 1) historic, 2) scenic and environmental, and 3) pedestrian and bicycle facilities. Kansas' share for these enhancements @ category is \$7 million for fiscal year 2001. Applications sponsored by the City of Wichita will compete for these funds with other statewide projects. Only tax-levying entities can sponsor applications. KDOT will announce the awards in the Spring of 2000.

A minimum 20% local match is assumed for most of the proposed projects. While the cost of construction, right-of-way acquisition, utility relocation and construction engineering is eligible up to 80%, the cost of design is not eligible. A 40% match is recommended to complete the Wayfinding Sign System, and we recommend at least 50% local match for the two Arkansas Riverfront Improvement projects. Projects for which local funding is already committed in the City's CIP are: the Wayfinding Sign System, and the two Riverfront Improvement projects.

The total cost of proposed projects is \$11,587,782. The City of Wichita's matching share is \$3,614,740. Design costs, public art, and certain contingencies not reimbursable under this program, will cost an additional \$654,872 if approved.

In the past, the City of Wichita has submitted applications under the Transportation Enhancement program, but not all applications were funded. Therefore, out of \$7 million available to KDOT for statewide distribution (under FY 2001), it is unlikely that all of Wichita's applications requesting \$7.32 million will be funded.

The Transportation Enhancement Program projects require: (1) a certification that no known or foreseeable legal impediments exist that would prohibit completion of the projects; and (2) a resolution that the City of Wichita will accept the responsibility for coordinating the projects and funding the local match.

Mayor Knight momentarily absent.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard and no one appeared.

Motion --
--carried

Knight moved that the projects be approved; Staff be authorized to submit project requests to KDOT; and the Resolution be adopted. Motion carried 7 to 0.

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RESOLUTION NO. R-99-359

A Resolution of the City of Wichita to approve the filing of applications for transportation enhancement projects to KDOT, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

CITY COUNCIL AGENDA

APPOINTMENTS

BOARD APPOINTMENTS.

Motion –
-- carried

Pisciotte appointed Keith Lawing (Historic Preservation Board) and moved that the appointment be approved. Motion carried 7 to 0.

PROCLAMATIONS

PROCLAMATIONS.

There were no proclamations considered.

LEAGUE OF CITIES

LEAGUE OF CITIES ANNUAL BUSINESS MEETING APPROVAL OF VOTING DELEGATE AND ALTERNATE.

Motion --
-- carried

Knight moved that Council Member Rogers be designated as a voting delegate and Council Member Pisciotte be designated as alternate voting delegate. Motion carried 7 to 0.

CONSENT AGENDA

Knight moved that the Consent Agenda be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED SEPTEMBER 20, 1999.

Bids were opened September 17, 1999, pursuant to advertisements published on

29th Street North, from Oliver to Woodlawn - east of Oliver at 29th Street North. (87N-0137-01/472-82996/448-89104/706754/208229) Traffic to be maintained during construction using flagpersons and barricades. City Council approval date: 8/11/98. (District I)

Ritchie Paving - \$1,061,870.13 (Correction)

Knight moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

PUBLIC WORKS DEPARTMENT/FLEET & BUILDINGS DIVISION: Brooks Landfill Cell C Cap Upgrade Project. (131300)

Bob Bergkamp Construction - \$1,014,948.40* (Total award)

*Deduct <\$152,000.00> (Base bid for hydromulching)
Add \$58,000.00(Alternate #2)
Deduct \$22,631.60 (Alternate #1)

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PUBLIC WORKS DEPARTMENT/FLEET & BUILDINGS DIVISION: Concrete and Brick Patio Repairs at City Hall. (130823)

Restoration & Waterproofing Contractors, Inc. - \$48,830.00 (Total net bid/Group I)

PUBLIC WORKS DEPARTMENT/FLEET & BUILDINGS DIVISION: Diamond Saw Blades. (130849)

United Rentals - \$276.04 (Item 1/per each)
\$302.08 (Item 2/per each)
\$187.50 (Item 3/per each)

POLICE DEPARTMENT/SUPPORT SERVICES DIVISION: Night Sights. (600528)

Gil Hebard Guns, Inc. - \$15,474.72 (Total net bid)

POLICE DEPARTMENT/SUPPORT SERVICES-AIR SERVICES DIVISION: Helicopter Parts. (083931)

Air Flite, Inc. - \$9,369.31 (Total net bid)

VARIOUS DEPARTMENTS/NA DIVISIONS: Roll Tissue, Paper Towels and Miscellaneous Paper Products. (130849)

Southwest Paper Co. - \$12.57* (Group I/cost per case)
Unisource-Wichita - \$24.35 (Group II/cost per case)
Southwest Paper Co. - \$11.42* (Group III/cost per case)
Massco Maintenance Supply - \$45.19 (Group IV-Item 1/per case)
\$34.75 (Group IV-Item 2/per case)
\$35.00 (Group V/cost per case)

*2%-10

WATER & SEWER DEPARTMENT/PRODUCTION & PUMPING DIVISION: Anhydrous Ammonia (Bulk Delivery). (183632)

Laroche Industries Inc. - \$500.00* (Cost per ton)
*Redirect award

Knight moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

LICENSES

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>1999</u>	<u>(Consumption on Premises)</u>
Michael L. Consolver	MacDonald Golf Course Snack Bar*	840 North Yale
		<u>(Consumption on Premises)</u>
P.D. (David) Bairrington	Lyncrest 66 #26635	1250 South Rock Road
P.D. (David) Bairrington	Cross Roads 66 #27080	7136 West Central
P.D. (David) Bairrington	Williamsburg 66 #27216	1650 North Oliver
P.D. (David) Bairrington	Town West 66 #27222	4414 West Maple
P.D. (David) Bairrington	Broadway 66 #27375	4821 South Broadway
P.D. (David) Bairrington	North Seneca 66 #27645	515 North Seneca Street
P.D. (David) Bairrington	Tyler 66 #27747	1254 South Tyler Road
P.D. (David) Bairrington	Reflection Ridge 66 #27754	7236 West 21st Street North
P.D. (David) Bairrington	Expressway 66 #27904	3311 North Rock Road
P.D. (David) Bairrington	Mount Vernon 66 #27981	2001 South Oliver Street

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New Operator

1999

(Consumption on Premises)

Tang Tuong

Café Sao Dem*

1933 North Broadway

*General/Restaurant -- 50% or more of gross receipts derived from sale of food.

Motion -- carried

Knight moved that the licenses be approved subject to Staff approval. Motion carried 7 to 0.

PLANS AND SPEC.

PLANS AND SPECIFICATIONS:

a. 1999-2000 CDBG public facilities and improvements (Phase A) concrete - at various locations. (99 602302 A/602302/800901) Traffic to be maintained during construction using flagpersons and barricades. City Council approval date: 3/16/99. (Districts I, III, and VI)

b. 1999 condemned sidewalk and wheelchair ramps - Phase I - at various locations. (132100 and 785931/n/a; and 399125) Traffic to be maintained during construction using flagpersons and barricades. City Council approval date: 8/11/98.

Motion --
-- carried

Knight moved that the Plans and Specifications be approved and the City Clerk be instructed to advertise for bids to be submitted to the Board of Bids and Contracts by 10:00 a.m., October 1, 1999. Motion carried 7 to 0.

SUBDIVISION PLANS AND SPECIFICATIONS:

a. Lateral 77, Main 22, War Industries Sewer to serve Mediterranean Plaza Addition - north of 29th Street North, east of Rock. (468-83017/743806/480494). Does not affect existing traffic. City Council approval date: 8/10/99. (District II)

Motion --
-- carried

Knight moved that the Plans and Specifications be approved and the City Clerk be instructed to advertise for bids to be submitted to the Board of Bids and Contracts by 10:00 a.m., October 1, 1999. Motion carried 7 to 0.

PRELIMINARY ESTS.

PRELIMINARY ESTIMATES:

a. Storm Water Drain 144 to serve Ridge Port North Addition and Unplatted Tract - south of 37th, east of Ridge. (468-82988/751278/485169) Does not affect existing traffic. City Council approval date: 5/25/99. (District V) - \$450,000.00

b. 33rd Street South from Gordon to Meridian to serve YMCA South Addition - west of Meridian, north of I-235. (472-82952/765297/490631) Traffic to be maintained using barricades and flagpersons. City Council approval date 6/23/98. (District IV) - \$133,200.00.

Motion -- carried

Knight moved that the Preliminary Estimates be approved and filed. Motion carried 7 to 0.

RIDGE PORT

PETITION FOR PAVING AND WATER DISTRIBUTION SYSTEM TO SERVE RIDGE PORT ADDITION – NORTH OF 29TH STREET NORTH, EAST OF RIDGE ROAD. (District V)

Agenda Report No. 99-929.

The signatures on the Petitions represent three owners that own 100% of the improvement districts.

Ridge Port Addition, a new residential development, was platted in 1998. The developer has submitted new Petitions to modify the distribution of special assessments to reflect variations in market value of the lots.

There is no change to the project budgets.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or by the owners of the majority of the property in the improvement district.

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Motion –carried

Knight moved that the Petitions be approved and the Resolutions be adopted. Motion carried 7 to 0.

RESOLUTION NO. R-99-360

Resolution of findings of advisability and Resolution authorizing the improving of Ridge port, from the north line of 29th Street North, north to the south line of Shadow Lakes; Shadow Lakes from the south line of Lot 20, Block 4, east to the east line of Lot 30, Block 6; Ridge Port Court, Lots 1 through 24, Block 6, and Lots 29 through 34, Block 4; Ridge Port Circle, Lots 20 through 28, Block 4, and Westwind Bay from the east line of Ridge Road, east, south and west back to the east line of Ridge Road; Westwind Bay Court, Lots 1 through 4 and 14 through 18, Block 3 and Lots 3 through 9, Block 2 of Ridge Port Addition (east of Ridge, north of 29th Street North, 472-89246) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

RESOLUTION NO. R-99-361

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89264 (east of Ridge, north of 29th Street North) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

FOREST LAKES WEST PAVING PEPPER RIDGE AND FOREST PARK STREETS IN FOREST LAKES WEST ADDITION – NORTH OF 29TH STREET NORTH, EAST OF TYLER. (District V)

Agenda Report No. 99-930.

On September 23, 1997, the City Council approved a Petition to pave Pepper Ridge and Forest Park Streets in Forest Lakes West Addition. Based on recent bid prices, it is doubtful there is sufficient funding in the original Petition to award a construction Contract.

A new Petition with an increased budget has been submitted. The signature on the new Petition represents one owner of 100% of the improvement district.

The original Petition totaled \$145,000. The new Petition totals \$220,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or by the owners of the majority of the property in the improvement district.

Motion –carried

Knight moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0.

RESOLUTION NO. R-99-362

Resolution of findings of advisability and Resolution authorizing improving of Pepper Ridge, from the south line of Lot 12, Block 5, to the north line of Lot 23, Block 5; and Forest Park, from the east line of Pepper Ridge to the west line of Lot 1, Block 3, 472-82871, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

STREET CLOSURES SPECIAL EVENTS STREET CLOSURES/USES.

Agenda Report No. 99-951.

In accordance with the Special Events Procedure, event sponsors are to notify adjacent property owners and coordinate arrangements with Staff, subject to final approval by the City Council.

The following street closure requests have been submitted:

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- 1) Outdoor Farm & Art Market - Street Closure: Mosley Street from First Street to the alley between River City Brewery and Kansas Paint. October 2, 1999, 5:30 a.m. to 2:00 p.m.
- 2) Race for the Cure - Street Closure: Douglas at Rock Road to Eastborough; Amour, from Douglas running south to the first entrance to Towne East; and, Douglas at Woodlawn. October 2, 1999, from 7:30 a.m. to approximately noon.
- 3) Historic Midtown Citizens Association Walking Tour - Street Closure: Seventeenth Street at Wellington Place and Park Place at Sixteenth and Seventeenth Streets. Saturday, October 9, 11:00-5:00, and Sunday, October 10, noon to 5:00 p.m.

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Motion --

Knight moved that the requests be approved subject to: (1) Event Sponsors notifying every property and/or business adjoining any portion of the closed street; (2) Coordination of event arrangements with City Staff; (3) Hiring off-duty public safety officers as required by the Police Department; (4) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Departments; (5) Submitting a Certificate of Insurance evidencing general liability insurance which covers the event and its related activities, including the naming of the City as an additional insured with respect to the event's use of the closed City streets. Motion carried 7 to 0.

-- carried

CLAIMS ALLOWED

REPORT ON CLAIMS ALLOWED – AUGUST, 1999:

<u>Name of Claimant</u>	<u>Amount</u>
Norman Porter	\$211.92
Laura Formsma	\$187.99
Rocky Crownover	\$179.26
Gary J. Hubbard	\$150.00*
Gary J. Hubbard	\$531.66*
George Holland	\$291.92
Cathy L. Rogers	\$300.00
Kevin Roberts	\$62.16
SW Bell	\$916.76
Jerry Dorpinghaus	\$174.53
J. V. Lentell	\$254.16
Cindy Duvaul	\$468.29
Ice Cinemas-Cinemas West	\$206.22
American Family Ins./Richard & Patricia Seng	\$4,065.20
Kansas Gas Service	\$276.50
Kansas Gas Service	\$386.40
Chad Wetta	\$100.00

*Settled for lesser amounts than originally claimed.

Motion -- carried

Knight moved that the Report be received and filed. Motion carried 7 to 0.

ASSESSMENT ROLLS

PROPOSED ASSESSMENT ROLLS.

Proposed Assessment Rolls have been prepared for thirty (30) water and twenty-six (26) sewer projects, and it is necessary to set a public hearing date. Informal hearing with City personnel will be held October 11, 1999.

Motion --

Knight moved that the hearing on the proposed assessment rolls be set for 11:00 a.m., Tuesday, October 26, 1999, and the notices of hearing be published at least once, not less than 10 days prior to the date of the hearing. Motion carried 7 to 0.

-- carried

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MENNONITE HOUSING CDBG CONTRACT – MENNONITE HOUSING REHABILITATION SERVICES HOME REPAIR PROGRAM.

Agenda Report No. 99-931.

On March 16, 1999, the City Council allocated Community Development Block Grant (CDBG) funds for the 1999/2000 program year. Included in the 1999/2000 CDBG allocations were funds for a home repair program. Administration of the program was procured through a competitive Request for Proposal (RFP). On March 16, 1999, the City Council designated the City's Neighborhood Improvement Services as administrator of the program and to contract with Mennonite Housing and/or other agencies to do the repair work.

The contract with Mennonite Housing Rehabilitation Services allows the City to secure a substantial portion of the home repair work from Mennonite Housing. The contract specifies work items upon which Mennonite Housing will be given first opportunity to bid. Those work items will be accomplished by Mennonite Housing unless its bid exceeds the staff estimate by ten (10) percent, in which case other bids will be secured. The contract term is twelve months beginning July 1, 1999 and ending June 30, 2000.

Because the work is procured through a bid process there is no minimum contract value. The maximum amount of the contract is \$100,000.

Motion --
-- carried

Knight moved that the Agreement/Contract be approved and the necessary signatures be authorized. Motion carried 7 to 0.

LEGAL SERVICES CONTRACT WITH MCDONALD, TINKER, SKAER, QUINN & HERRINGTON, P.A. FOR LEGAL SERVICES.

Agenda Report No. 99-932.

The City retained the law firm of McDonald, Tinker, Skaer, Quinn & Herrington, P.A., to provide legal services for the City in civil rights cases involving police litigation.

The original contract provided for compensation not to exceed \$25,500.00. It has become necessary to spend additional sums to continue the representation of the City in three pending cases. This will be the first amendment to the original contract.

The additional sum covered by the amendment is \$20,000.00 to continue to defend the City in the litigation. The charges are reasonable in amount for the legal services involved. Payment will be from the tort claims fund.

Motion --
-- carried

Knight moved that the Agreement/Contract be approved and the necessary signatures be authorized. Motion carried 7 to 0.

POLICE TRANSCRIBING TRANSCRIBING SERVICES – POLICE RECORDS.

Agenda Report No. 99-933.

On November 18, 1998, the City of Wichita entered into a contract with the TIVEN Medical Billing Agency. TIVEN was retained to help address a growing backlog of taped reports in the Wichita Police Department. The contract for \$27,000 was the result of a bid process in which TIVEN was the most cost-effective and beneficial service provider. The contractor was also able to meet document and personnel security requirements and to perform transcription services in an acceptable time frame. The contract approved last year by Council was for one year and began December 1, 1998. Options were included in the contract to extend services for two successive one-year terms by mutual agreement of both parties.

The Police Records Bureau has been behind in transcribing officer-taped reports for several years. In an effort to address this backlog, TIVEN was selected in a competitive proposal in 1998. The initial contract has successfully reduced the original 2,000-tape backlog to approximately 660 tapes. An additional \$25,000 is needed to eliminate the taped-report backlog. Eliminating the backlog will facilitate the conversion to a digital dictation system, anticipated later this year. Once the new system is installed, Police staff should be able to keep the tape backlog to a minimal amount, due to the efficiency of the new digital system.

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Salary savings due to turnover are available to fund the contract extension.

Motion --
-- carried

Knight moved that the Agreement/Contract be approved and the necessary signatures be authorized. Motion carried 7 to 0.

COMPUTER/DATA

CONTRACT EXTENSIONS FOR BANKING SERVICES, COMPUTER EQUIPMENT/MAINTENANCE, AND OFFICE SUPPLIES.

Agenda Report No. 99-934.

Three critical contracts (banking services, computer equipment and maintenance, and office supplies) will expire before December 1, 1999. Staff believes that it is in the best interest of the City to extend the contracts past January 1, 2000, to March 1, 2000, in order to take precautionary steps for any Y2K issues that may arise. Listed below are the vendors reflecting their current contract status and the proposed contract status:

<u>Vendor Name</u>	<u>Type of Service</u>	<u>Current Expiration</u>	<u>Extension</u>	<u>Revised Expiration</u>
Commerce Bank	Banking	September 30, 1999	Five months	March 1, 2000
Business Computer Center	Computer equipment & maintenance	August 31, 1999	Six months	March 1, 2000
US Office Products	Office supplies	November 30, 1999	Three months	March 1, 2000

These contracts have been in place for three years, the vendors are knowledgeable and experienced with the City's operations and procedures. The vendors have provided to the City of Wichita a Y2K compliance certification. The contracts will be bid through a formal 'Request for Proposal' in 2000.

There are sufficient funds budgeted for these contracts. The computer equipment and maintenance contract and the office supply contract does not obligate the City to any specific purchase or volume of purchases; it only provides a means to carry out City-initiated purchases at the lowest net cost. Computer equipment and maintenance is approved prior to each transaction.

Motion --
-- carried

Knight moved that the Agreement/Contract be approved and the necessary signatures be authorized. Motion carried 7 to 0.

CHENEY DAM

ENGINEERING SERVICES FOR REPAIRS TO CHENEY DAM.

Agenda Report No. 99-935.

Cheney Reservoir is a vital component of the City's water supply system. In 1998 it provided over 65% of the City's water supply. The dam was constructed in 1965, and was funded by the Bureau of Reclamation with cooperative funding from the City of Wichita. As part of the construction agreement, the City is responsible for maintenance of the dam. In 1998 the Bureau of Reclamation inspected the dam and facilities, and prepared the "Comprehensive Facility Review for Cheney Dam." The report included a recommendation that repairs be made to the soil cement on the face of the dam. On April 27, 1999, the City Council approved a project to make those repairs.

The Staff Screening and Selection Committee sent a Request for Proposal (RFP) to solicit engineering services for repairs and received responses from Allied Laboratories, Austin Miller, Geotechnical Service, and Terrain. The Committee reviewed the proposals and voted unanimously to select Austin Miller, P.A. The services Austin Miller will provide include identifying and prioritizing repair locations and construction inspection.

Staff has identified three alternatives for the governing body to consider:

1. Approve the Contract with Austin Miller, P.A., to provide engineering services.
2. Select an alternative firm to do this project.
3. Do not do the project. This alternative is not recommended.

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The cost of engineering services, as described in the proposed Contract, will not exceed \$42,400. The City Council approved funding for this study on April 27, 1999, when it authorized an amendment to the CIP. This project, Cheney Dam Repair, CIP W-809 has a budget of \$500,000.

Motion --
-- carried

Knight moved that the Agreement/Contract be approved and the necessary signatures be authorized. Motion carried 7 to 0.

COMMUNITY LAKE

COMMUNITY LAKE ASSISTANCE GRANTS. (District I)

Agenda Report No. 99-936.

Improvements to property owned by the City (known as "K-96 Lake"), and located near K-96 and I-35 in northeast Wichita are proposed for development. Staff have requested and received matching funds from the Kansas Department of Wildlife and Parks (KDWP) through its Community Lake Assistance grant program. A grant in the amount of \$60,000 has been provided for an entry drive into the property. In addition, a grant in the amount of \$55,000 is provided for construction of a parking lot at the lake site.

The K-96 Lake is unimproved and yet frequently used by local anglers resulting in erosion of the site through unauthorized vehicle access. The 39.9-acre lake is currently not stocked.

Community Lake Assistance Grant funds are available from Kansas Department of Wildlife and Parks to make improvements at community lake sites and enhance urban fishing opportunities. To construct an entryway drive and parking lot at K-96 Lake, the Park Department requests that the City approve two grant applications. A project to construct an entryway drive will total \$60,000, with grant funds providing 66.67% of the total (\$40,000) and the City providing the \$20,000 balance. The second project, construction of a parking lot, will total \$55,000. Grant funds of \$40,000 represent 72.73% of the total project, with the City providing \$15,000 as a match. . The term of the grant shall be July 1, 2000.

Once improvements have been made, KDWP fisheries will routinely stock this lake as other urban fishing lakes within the City. KDWP has indicated that they would look favorably on future investments in this lake, including a handicapped accessible fishing dock and boat ramp and dock.

The estimated total cost for the two grants is \$115,000. The City's share of the total cost is \$35,000 and is available through funds allocated in the Park Department's Capital Improvement Program and through "in-kind" services.

Motion --
--carried

Knight moved that the grant applications be approved and the necessary signatures be authorized. Motion carried 7 to 0.

BUDGET ADJUSTMENT CIP BUDGET ADJUSTMENT - INSTALLATION AND REPAIR OF MAINS.

Agenda Report No. 99-937.

The Water Utility has two projects that fund the installation and repair of mains. Specifically, Unidentified Water Mains, CIP W-65, pays the cost of connecting links and over-sizing for water systems in new developments. These projects are identified when petitions for water system extensions are received. Distribution Mains Replacement, CIP W-67, funds the replacement of older, leak-prone water mains with a particular emphasis on two-inch galvanized mains.

The 1999 budget for CIP W-65 is \$2.5 million and for CIP W-67 is \$3 million. It is difficult to foresee at the beginning of the year where the funds will be needed. This year, construction has proceeded quickly on several projects budgeted under CIP W-67, while there have been fewer projects in CIP W-65. As a result, Staff anticipates a surplus of about \$1 million in W-65 and a potential deficit in W-67 of \$1 million, were current projects to continue on schedule.

There will be no change in the total Water or Sewer CIP budget, only a change in allocation.

Motion -- carried

Knight moved that the transfer of funds be approved. Motion carried 7 to 0.

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SANITARY SEWER

PUBLIC EXTIGENCY PROJECT – SANITARY SEWER REPAIRS. (District I)

Agenda Report No. 99-938.

Staff was informed that a sanitary sewer was leaking into a vault owned by Southwestern Bell Telephone. The vault is located in Second Street, ½ block east of Washington.

Due to the congested underground utilities in the area and the traffic considerations along Second Street, excavation is not desirable. Staff has recommended rehabilitation of the sanitary sewer line using cured-in-place liner pipe.

Staff has negotiated a price with Insituform Plains, Inc., the only local pipe lining company, for a price of \$16,275.00. The City Manager approved proceeding with the project on August 31, 1999.

Capital Improvement Program, Reconstruction of Sanitary Sewer (CIP #S-4) has a budget of \$2,300,000 for 1999. This repair will be funded from Sewer Utility Revenues and Reserves and/or a future revenue bond issue.

City Ordinance 2.64.020, "Public Exigency", allows the City Manager to authorize work to be performed by a contractor without formal bidding.

Motion – carried

Knight moved that the public exigency expenditure be approved. Motion carried 7 to 0.

CONDEMNATIONS

REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES.

Agenda Report No. 99-939.

On September 8, 1999 the Board of Code Standards (BCSA) held a hearing on the following seven (7) properties. These properties are considered dangerous and unsafe structures, and are being presented to schedule a condemnation hearing before the Governing Body.

Improvement notices have been issued on these structures, however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove these properties.

<u>Address</u>	<u>District</u>
855 East Eighth Street	VI
512 North Bebe	VI
1702 South Hiram	V
1151-53 South Terrace	III
3441 East Roseberry	III
2951 South Clifton	III
3089 South Clifton	III

These structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita, shall cause them to be deemed as dangerous and unsafe buildings, as required by State Statute for condemnation consideration.

Motion --
-- carried

Knight moved that the Resolutions placing this matter on the agenda for a Hearing before the Governing body on November 9, 1999, at 11:00 a.m. be approved. Motion carried 7 to 0.

RESOLUTION NO. R-99-351

A Resolution fixing a time and place and providing for notice of a hearing before the Governing Body of the City of Wichita, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 42, Block E, in Planeview Subdivision No. 2., Sedgwick County, Kansas, known as 3089 South Clifton, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous or unsafe structure, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

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RESOLUTION NO. R-99-352

A Resolution fixing a time and place and providing for notice of a hearing before the Governing Body of the City of Wichita, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 49 and 51 In Jones Supplemental Plat of Jones Addition, to the City of Wichita, in Sedgwick County, Kansas, known as 855 East Eighth Street, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous or unsafe structure, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

RESOLUTION NO. R-99-353

A Resolution fixing a time and place and providing for notice of a hearing before the Governing Body of the City of Wichita, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 58, Block E, Planeview Subdivision No. 2, Sedgwick County, Kansas, known as 2951 South Clifton, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous or unsafe structure, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

RESOLUTION NO. R-99-354

A Resolution fixing a time and place and providing for notice of a hearing before the Governing Body of the City of Wichita, at which the owner, his agent, lienholders of record and occupants of property legally described as: Exhibit A: Lot 44, Block C, Hilltop Manor SubA, replat of Hilltop Manor Second Addition, in Sedgwick County, Kansas, known as 1151-53 South Terrace, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous or unsafe structure, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

RESOLUTION NO. R-99-355

A Resolution fixing a time and place and providing for notice of a hearing before the Governing Body of the City of Wichita, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 32, Block J, In Planeview Subdivision No. 1, Sedgwick County, Kansas known as 3441 East Roseberry, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous or unsafe structure, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

RESOLUTION NO. R-99-356

A Resolution fixing a time and place and providing for notice of a hearing before the Governing Body of the City of Wichita, at which the owner, his agent, lienholders of record and occupants of property legally described as: See Exhibit A: Lots 12, 14, and 16, Block, Gillespie Grove Addition to Wichita, Sedgwick County, Kansas, except that part of Lots 12 and 14 taken by the City of Wichita for right of way, known as 1702 South Hiram, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous or unsafe structure, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

RESOLUTION NO. R-99-357

A Resolution fixing a time and place and providing for notice of a hearing before the Governing Body of the City of Wichita, at which the owner, his agent, lienholders of record and occupants of the structure located on land described as: Lot 7, Block 3, Kell Hawkins Addition to Sedgwick County, Kansas, known as 512 North Bebe, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous or unsafe structure, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

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NIC CONTRACT

NORTH INDUSTRIAL COORIDOR CONTRACT AMENDMENT - CAMP DRESSER AND MCKEE.

Agenda Report No. 99-940.

On November 14, 1995, the City signed a Settlement Agreement between the City of Wichita and the Kansas Department of Health and Environment (KDHE) for the conduct an RI/FS for the North Industrial Corridor (NIC) Site. Camp Dresser & McKee Inc. (CDM) is currently under contract with the City of Wichita to provide professional environmental engineering services for the Remedial Investigation and Feasibility Study (RI/FS) of the North Industrial Corridor Site (Agreement for Professional Services between the City of Wichita, Kansas and Camp Dresser & McKee Inc. for North Industrial Corridor Site Project, January 7, 1997). The City authorized a Change Order to CDM's contract on August 25, 1998 (Change Order) which allowed CDM to reallocate funds within select tasks to cover expenses for "beyond scope" and "out-of-scope" work conducted at the City's, KDHE's, and NIC Participants' requests. No additional funds were requested by CDM in the change order. This will be the first amendment to the contract. The City is working in concert with a group of businesses within the NIC Site known as the NIC Participants to fund and oversee CDM's work.

The original scope of work in CDM's contract has expanded during the course of the NIC RI/FS due to requests by KDHE and the NIC participants. This has resulted in additional sampling and more expensive analytical work than originally specified in the work plan. In addition KDHE has asked for more identification of the contamination source areas. The work required is necessary to complete the RI/FS process and other environmental investigatory activities related to the identification of the contamination source areas, but beyond the scope of CDM's original contract with the City. The contract amendment is necessary at this time in order for CDM to complete studies required by KDHE and fulfill the City's obligations in its Settlement Agreement. The NIC Participants have reviewed and approved the proposed investigation scope changes.

The total contract cost for Amendment No. 1 in FY 1999 is a not to exceed amount of \$700,000 and a not to exceed total contract of \$1.4 million. The Finance Department has indicated that funds are available in the NIC TIF to cover these costs.

Motion -- carried

Knight moved that the amendment be approved and the necessary signatures be authorized. Motion carried 7 to 0.

BRIDGEPORT FIRST

DESIGNATION OF REDEVELOPER FOR LOT 1, BLOCK 4, BRIDGEPORT INDUSTRIAL PARK FIRST ADDITION. (District VI)

Agenda Report No. 99-941.

The City of Wichita, in the late 1970's determined that there was insufficient heavy industrial land available for development within the Wichita city limits. Responding to this need, the City purchased property in the North Industrial Corridor through the Urban Renewal Act and redeveloped the area with new utility lines and streets into the Bridgeport Industrial Park Additions I, II and III.

Mark Chavey, Chavey Ventures, Inc., a Wichita and Lenexa, Kansas small business owner doing business as Red Wheel Fundraising, was located in Haysville, Kansas and was destroyed by the tornado last May. Red Wheel has been operating out of temporary quarters using refrigerated trucks. They supply pre-packaged frozen foods, such as pies and pizzas, to fundraising groups like schools and churches. The company has been in business for over 11 years. Red Wheel has 5 full time employees, and 7-10 part time drivers depending on the time of year. They distribute throughout most of Kansas and the Northern half of Oklahoma.

Chavey Ventures, Inc., have offered to purchase Lot 1, Block 4, Bridgeport Industrial Park I and construct a 3,000 to 5,000 square feet metal building to house their business. This new facility will provide multi-use space for office, and warehouse uses with 1,000 – 1,500 square feet devoted to a built in freezer.

Chavey Ventures have offered to purchase the lot for \$41,166.11 plus pay remaining specials totaling \$3,384.60 over the remaining life of the specials. The lot contains approximately 38,473 square feet (.88 acre) and the offer is for \$1.07 per sq. ft. to be paid at closing and \$.088 per sq. ft. to be paid over the remaining life of the Special Assessments for a total of \$1.16 per sq. ft. Recent sales in Bridgeport I have ranged from \$.61-to-\$.1.05 per gross square foot.

There is a broker involved in the transaction and a six percent commission will be paid out of the proceeds of the sale of the property. Chavey Ventures is requesting the City indemnify them against existing environmental

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problems. Chavey Ventures proposes to construct a steel building for its Red Wheel Fundraising company. The new facility will provide office and warehouse as well as a large freezer storage area. They do not intend to store any equipment other than delivery vehicles outside. The proposed use is compatible with other uses in the area.

The proceeds, net of closing costs, commissions and costs related to the parcel will be returned to the City's CDBG program in accordance with URA requirements.

Motion --
-- carried

Knight moved that the designation of redeveloper, budgets, and contracts be approved and the necessary signatures be authorized. Motion carried 7 to 0.

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ SEPTEMBER 14, 1999)

- a. Tax exemption - Case Corporation. (District V)

ORDINANCE NO. 44-330

An Ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article 11, Section 13, of the Kansas Constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of Case Corporation, so exempted, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

- b. Z-3330 - zone change south of Harry and east of Yale Avenue, 1612 South Yale. (District III)

ORDINANCE NO. 44-329

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by Section 28.04.210, the Code of the City of Wichita, Kansas, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight. Z-3330

- c. Educational Facilities Revenue Bonds - Newman University. (District IV)
(First read August 24, 1999)

ORDINANCE NO. RR-328

An Ordinance authorizing the City of Wichita, Kansas to issue its educational facilities revenue bonds, Series No. IX, 1999, (Newman University) in the aggregate principal amount of not to exceed \$11,350,000 for the purpose of providing funds to purchase, acquire, construct, equip, reconstruct and rehabilitate certain commercial improvements consisting of administrative, educational, and residential facilities; prescribing the form and authorizing execution of a trust indenture between the City and Commerce Bank, N.A., Kansas City, Missouri, as trustee; prescribing the form and authorizing execution of a site lease by and between the City and Newman University, prescribing the form and authorizing execution of a lease Agreement by and between Newman University and the City; approving the form of a guaranty Agreement between Newman University, as guarantor, and Commerce Bank, N.A., Kansas City, Missouri, as trustee; prescribing the form and authorizing the execution of a bond purchase Agreement between the City, Newman University, and Fahnestock & Co., Inc., as purchaser of the Series IX, 1999 Bonds, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Cole, Gale, Lambke, Martz, Pisciotte, Rogers, Knight.

PLANNING AGENDA

Marvin Krout

Director of Planning stated that Items 27 through 32 and 35 could be considered as consensus Items unless the Council desired to withhold other items.

Motion --
-- carried

Knight moved that Planning Agenda Items 27 through 32 and 35 be approved as consensus Items. Motion carried 7 to 0.

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V-2192

V-2192 - REQUEST TO VACATE A PORTION OF A 20-FOOT WIDE DRAINAGE AND PEDESTRIAN ACCESS EASEMENT LOCATED SOUTH OF CENTRAL AND WEST OF CEDAR DOWNS CIRCLE.
(District V)

Agenda Report No. 99-942.

Staff Recommendation: Approve vacation of the portion of the 20-foot drainage and pedestrian access easement.
MAPC Recommendation: Approve vacation of the portion of the 20-foot drainage and pedestrian access easement. (unanimous)

The applicant is requesting to vacate the northerly 2.5 feet of the 20 foot wide drainage and access easement. A home is being constructed 2.5 feet into the easement.

No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation, adopting the findings of fact that are incorporated in the Vacation Order, subject to the applicant dedicating 2.5 feet of drainage easement on the south side of the existing easement. The applicant has submitted the required dedication. No written protests have been filed.

Motion --
-- carried

Knight moved that the vacation be approved; the dedication of the drainage easement be accepted and the necessary signatures be authorized. Motion carried 7 to 0.

D-1767

D-1767 - DEDICATION OF DRAINAGE AND UTILITY EASEMENT LOCATED ON THE WEST SIDE OF WEBB ROAD, SOUTH OF 29TH STREET NORTH. (District II)

Agenda Report No. 99-943. MAPC Recommendation: Accept the dedication.

As a requirement of an associated lot split (L/S 1010), this dedication is being made for the purpose of construction and maintenance of public utilities and drainage systems.

The dedication has been reviewed and approved by the Planning Commission.

The dedication will be recorded with the Register of Deeds.

Motion -- carried

Knight moved that the dedication be received and filed. Motion carried 7 to 0.

S/D 99-1

S/D 99-1 - PLAT OF WEST WAREHOUSE SECOND ADDITION LOCATED ON THE EAST SIDE OF WEST STREET ON THE SOUTH SIDE OF HARRY. (District IV)

Agenda Report No. 99-944.

Staff Recommendation: Approve the plat.
MAPC Recommendation: Approve the plat. (11-0)

This site is zoned LI, Limited Industrial and municipal services are available. This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

Motion -- carried

Knight moved that the Plat be approved and the necessary signatures be authorized. Motion carried 7 to 0.

S/D 99-7

S/D 99-7 - PLAT OF DAVIS MOORE 13TH ADDITION LOCATED SOUTH OF KELLOGG, WEST OF WOODLAWN. (District II)

Agenda Report No. 99-945.

Staff Recommendation: Approve the plat.
MAPC Recommendation: Approve the plat. (11-0)

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A zone change (Z-3298) from TF-3, Two-Family Residential to LC, Limited Commercial was approved for this site subject to platting. An amendment to the Davis-Moore Community Unit Plan (DP-183 Amendment #10) was also approved. Municipal facilities are available to serve this site.

This site is within the noise impact area of the McConnell Air Force Base and an avigational easement and restrictive noise covenant were required. The closure of a street has been guaranteed by a cash payment.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinance should be withheld until such time as the Plat is recorded with the Register of Deeds.

The avigational easement and restrictive covenant will be recorded with the Register of Deeds.

Motion --

Knight moved that the plat be approved and the necessary signatures be authorized; the document (s) be received and filed; and the associated zone change (Z-3298) Ordinance be placed on first reading with publication of the Ordinance being withheld until such time as the plat has been recorded with the Register of Deeds. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by Section 28.04.210, the Code of the City of Wichita, Kansas, introduced and under the rules laid over. Z- 3298

S/D 99-24

S/D 99-24 - PLAT OF MIKKI ADDITION LOCATED ON THE EAST SIDE OF ARKANSAS AVENUE, SOUTH OF 47TH STREET NORTH. (District VI)

Agenda Report No. 99-946.

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

This four-lot site is zoned SF-6, Single-Family Residential. City water is available to serve the site. The site has been approved by the Health Department for the use of on-site sewer facilities, pursuant to a restrictive covenant submitted which ties together Lots 1 and 2, and Lots 3 and 4 to satisfy the lot size requirements for sewage lagoons. Due to excessive lot depth, a restrictive covenant has been provided in accordance with City Fire Department standards to restrict the location of structures. A restrictive covenant has also been submitted in regards to participation in future improvements to Waco.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The restrictive covenants will be recorded with the Register of Deeds.

Motion --

Knight moved that the documents and plat be approved and the necessary signatures be authorized. Motion carried 7 to 0.

-- carried

S/D 99-25

S/D 99-25 - PLAT OF VILLAGE CHARTERS 2ND ADDITION LOCATED ON THE EAST SIDE OF TYLER ROAD, NORTH OF 21ST STREET NORTH. (District V)

Agenda Report No. 99-947.

MAPC Recommendation: Approve the plat. (11-0)

A zone change (Z-3306) from SF-6, Single-Family Residential to GO, General Office was approved for this site subject to platting. Municipal facilities are available to serve this site.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinance should be withheld until such time as the Plat is recorded with the Register of Deeds.

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Motion --

Knight moved that the plat be approved and the necessary signatures be authorized; the document (s) be received and filed; and the associated zone change Z-3306 Ordinance be placed on first reading with publication of the Ordinance being withheld until such time as the plat has been recorded with the Register of Deeds. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by Section 28.04.210, the Code of the City of Wichita, Kansas, introduced and under the rules laid over. Z- 3306

(Item No. 33)

DR-99-4

DR-99-4 - STREET NAME CHANGE FROM JACKSON STREET TO JACKSON HEIGHTS STREET AS PLATTED IN THE GILDERS GARDENS ADDITION AND PLAZA CENTRAL OFFICE PARK ADDITION LOCATED WEST OF 127TH STREET EAST BETWEEN DOUGLAS AND CENTRAL.
(District II)

Marvin Krout

Director of Planning reviewed the Item.

Agenda Report No. 99-948.

Staff Recommendation: Approve street name change.

MAPC Recommendation: Approve street name change. (Unanimous)

In April, the Sedgwick County/Wichita Address Committee unanimously voted that the Jackson Street west of 127th Street East, between Douglas and Central should be renamed due to the existence of another Jackson Street west of Broadway. The Address Committee is chaired by the City Fire Department and composed of staff from various departments which are involved in the naming of streets and addressing of properties, and which provide or support emergency services which depend on easy-to-find streets and addresses. Years ago, street names were recorded with plats which duplicate other street names in the county. These duplicates cause delays in everyday activities such as deliveries and have the potential to cause delays in emergency services. Staff polled the property owners on Jackson prior to the meetings of the Planning Commission and its Subdivision Committee on their preference if the name was changed. Six affected property owners prefer Jackson Heights as the new street name. Four affected property owners would have preferred Gilders Trail as the new street name. This street name change has been reviewed, and the name Jackson Heights was recommended by the Planning Commission.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard and no one appeared.

Motion --

Pisciotta moved that the street name change, as recommended by the Planning Commission, be approved and the Ordinance be placed on first reading. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance approving the street name of Jackson Street to Jackson Heights as platted in Plaza Central Office Park Addition, introduced and under the rules laid over.

(Item No. 34)

CU-532

CU-532 - REQUEST FOR CONDITIONAL USE PERMIT TO ALLOW A CAR WASH WITHIN 200 FEET OF RESIDENTIAL ZONING. (District VI)

Marvin Krout

Director of Planning reviewed the Item.

Agenda Report No. 99-949.

MAPC Recommendation: Approve, subject to conditions (7-4).

Staff Recommendation: Approve, subject to conditions.

CPO Recommendation: Deny (7-0).

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The applicant is requesting a Conditional Use permit to allow a car wash to be located within 200 feet of residential zoning. This .92 acre platted tract of land is currently zoned "LC" Limited Commercial and located north of 13th Street North and west of St. Paul.

The site plan shows a seven-bay car wash located approximately 90 feet north of 13th Street North. Six of the car wash bays would be self-service with the other one being automatic and located in the middle of the car wash. There are three vacuums located just south of the car wash facility. Fourteen parking spaces to be used as drying stalls are located north of the car wash with the remainder of the lot to be used for landscaping and open space (approximately 64 feet). However, the site plan does not identify any landscaping to be used to buffer the residential properties to the north. Staff is recommending a 15-foot landscape buffer and solid row of evergreen trees be planted along the north property line to provide additional buffering. A 20-foot platted alley also separates this facility from the residential properties to the north.

The car wash facility would be located five feet from the east property line and 20 feet one inch from the west property line, which serves as the driveway between the back portion of the lot and access to 13th Street North. The City of Wichita's two-way driveway standards require a 24-foot wide driveway. The plan also shows two 30-foot wide driveways providing access to 13th Street North. Planning staff and Traffic Engineering are requesting the western-most driveway be removed to provide more separation from this driveway to the driveway located on the adjacent property. The remaining driveway on the application area also aligns with the existing driveway on the funeral home property located to the south across 13th Street North. The western driveway shown on the site plan would be in direct conflict with left turns from the driveway south of the application area.

The Unified Zoning Code requires a Conditional Use for car washes, which are located within 200 feet of a residential zoned property. Section III-D.6.f. of the Unified Zoning Code establishes the standards that apply to car wash facilities in all zoning districts. Those standards relate to setbacks from major streets, other streets and residential zoning, fences, paving, lighting, signs, noise, street access, drainage and maintenance. The site plan indicates general compliance with the minimum requirements. The plan has been reviewed and approved by traffic standards as being in compliance with traffic engineering standards for turning radii, size of parking space, etc. However, the width of the two-way driveway located along the west property line does not meet the required 24-foot wide driveway standard.

There are residential properties located to the north on property zoned "SF-6" Single-family. To the west of the application area is a night club on property zoned "LC." South of this site is funeral home, while east of the site is an auto repair business. The property to the east and south is also zoned "LC."

At the August 11th CPO 6 hearing, the applicant's agent presented the request. Approximately 20 neighbors were in attendance at this meeting. Six of these individuals spoke in opposition to the request voicing concerns about the negative impact on the quality of life if this request was approved, excessive noise pollution, blowing trash, there are two existing car washes in the area, and problems associated with excessive lighting. No one spoke in support of the request. The Council voted unanimously to recommend the request be denied.

At the August 12th MAPC hearing, the applicant's agent once again presented the request. One neighbor spoke in opposition to the request and voiced the same concerns as at the CPO hearing. The applicant accepted all the conditions recommending by staff, except for the recommendation that no vacuums be permitted north of the wash bays. The Planning Commission voted 7 to 4 to approve the request subject to reversing the site plan with the eastern drive being 24 feet wide and the western drive 30 feet in width, six vacuums permitted north of the facility employing cut off devices which turn the vacuums off by 10 p.m. every night, and a six foot wooden fence along the west property line which extends 100 feet south of the north property line or to the north line of the existing building on the property to the west

There have been protests petitions filed by owners representing 51 percent of the land within 200 feet of the request site. This requires a 3/4 super majority vote by the City Council to approve this request.

Council Member Cole

Council Member Cole said there has been a night club in the area that has caused neighbors and police much trouble. Now there is some relief from the noise and trouble. The neighbors see this all-night car wash being used for future gathering of people leaving the club.

Having previously lived, for fifteen years, across the street from a car wash, the neighbors have valid concerns.

Motion --

Cole moved that having reviewed the hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the request be denied based on the following findings:

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1. The suitability of the subject property for the uses to which it has been restricted. The property is zoned "LC," Limited Commercial which permits a large number of less intensive non outdoor uses. A car wash would be a difficult use to effectively buffer from residential properties when compared to other permitted "by-right" "LC" uses.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request will permit an outdoor use that is open on a 24-hour basis and which tends to generate excessive noise. Neighbors testified that noise from other car washes in the area is intrusive and diminishes their ability to enjoy their properties. Not only do they hear the washing and vacuuming processes, but music is often played loudly as the vehicles are swept and dried. Car washes, by their very nature, also tend to result in considerable generation of trash which can blow into residential yards.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The plan supports efforts to minimize the detrimental impacts of higher intensity land uses located near residential living environments. The code recognized that car washes are not necessarily good neighbors to residential uses in that car washes are not permitted as a "use by right" when located within 200 feet of residential uses and should be reviewed on a case-by-case basis.
4. Benefit to the public: The general public is already well-served by two car wash facilities on the south side of 13th Street in the same vicinity.
5. Neighborhood support or opposition: There was considerable neighborhood opposition which included 20 property owners filing written protests, including 51 percent of the area within 200 feet whose owners are eligible to protest. CPO 6 was unanimous in recommending that this application be denied. Motion carried 7 to 0.

-- carried

Z-3331

Z-3331 - ZONE CHANGE FROM "SF-6" SINGLE-FAMILY RESIDENTIAL. DISTRICT TO "LC" LIMITED COMMERCIAL, LOCATED ON THE NORTHWEST CORNER OF 21ST STREET NORTH AND 119TH STREET WEST. (District V)

Agenda Report No. 99-950.

MAPC Recommendation: Approve, subject to conditions (11-1).
Staff Recommendation: Approve, subject to platting within 1 year and the Conditions of a Protective Overlay.
CPO Recommendation: Approve, subject to the Conditions of a Protective Overlay (4-3).

The applicant is requesting "LC" Limited Commercial zoning for a 4.2 acre tract, with approximate dimensions of 330 feet x 600 feet, located at the northwest corner of the intersection of 21st Street North and 119th Street West. The property is currently vacant. It is adjacent on the west with a commercial tract, Harp Addition. Cedar Downs Addition, a residential development with approximately 65 single-family homes on lots averaging 1 ½ to 2 acres in size, is adjacent to the application area to the north and west of Harp Addition.

The other three corners at this intersection have a similar pattern of "LC" Limited Commercial zoning on the corner, surrounded by single family development. Sun Ridge Addition on the southwest corner has between two and three acres of commercial property, bordered by one large lot suburban residence along 119th Street West, and the remainder of the corner is traditional single family houses on relatively compact lots. DP-218 Aberdeen C.U.P. is located immediately to the east of the application area and has eight acres of commercial property, surrounded by Aberdeen First Addition, a single-family subdivision. All "LC" uses are permitted except adult entertainment establishments, private clubs, taverns, and drinking establishments, with additional restrictions added within 150 feet of the north and east property lines adjacent to the single-family areas. These additional restrictions are to prohibit drive-in and drive-through restaurants, convenience stores, service stations, car washes and overhead doors for auto service and/or repair facing either 21st Street North or 119th Street West within this 150 foot strip. DP-160 Woodbridge C.U.P. retained 0.8 acre for commercial uses on the southeast corner, and restricted uses to banks, convenience stores, service stations, offices, pharmacies, medical and dental offices, restaurants, retail shops, and tire, battery and accessory stores. This small retail site is surrounded by single family homes.

The site is below the minimum size of 6.0 acres requiring Community Unit Plan review for commercial use. As a result, restrictions on the property would be those contained in the Sign Code regarding signage, and the Unified Zoning Code related to screening, compatibility standards, and the Landscape Ordinance regarding buffering adjacent to residential use on the north side of the property and across the street to the east. At the time of platting,

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additional right-of-way and access controls would be established for the property in order to meet design standards for the future intersection improvements.

At the CPO (5) meeting held August 25, 1999, the Council voted 4-3 to recommend in favor of the rezoning to "LC" Limited Commercial with a Protective Overlay, but with the replacement of Condition #2 of the Protective Overlay, limiting uses on the northern 150 feet of the property to "NR" Neighborhood Retail uses, to the restrictions offered by the applicant. One citizen spoke in opposition. Council members voting in opposition expressed the desire to see the area remain residential.

At the MAPC meeting held August 26, 1999, MAPC voted (11-1) to approve the zone change, with the Protective Overlay restrictions for Conditions #1 and #2 offered by the applicant, and Condition #3 contained in staff recommendation. One citizen spoke in favor of commercial use on the property, but urged the existing windbreak between the property and the residences on the north remain after development. The MAPC recommendation was that the zone change be approved subject to platting within one year and subject to the following Protective Overlay:

1. No parcel within this plat shall allow the use of adult entertainment establishments, private clubs, taverns, and drinking establishments. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment.
2. All other uses in the "LC" Zoning district will be allowed except within the north 150 feet where the following uses will be eliminated:
 - Drive-in and drive-through restaurants
 - Convenience stores
 - Service Stations
 - Car washes
 - No overhead doors for auto service and/or repair facing 119th Street West.
3. Signage is limited to monument signs with a maximum of 20 feet in height and with a minimum spacing of 150 feet between signs. No offsite or portable signs are permitted.

The dissenting Commissioner was not opposed to the rezoning, but was opposed to the staff recommendation to limit signage as possibly inhibiting some franchise companies from developing the property.

Motion --

Knight moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved, subject to the recommended conditions and the Ordinance be forwarded for first reading when the Plat is forwarded to the City Council. Motion carried 7 to 0.

-- carried

EXECUTIVE SESSION

Motion --

Knight moved that the Council recess to executive session to consider consultation with legal counsel on matters privileged in the attorney-client relationship relating to pending litigation and legal advice, and the regular meeting be resumed at 11:05 a.m. in the City Council Chambers. Motion carried 7 to 0.

-- carried

RECESS

The City Council recessed at 10:45 a.m. and reconvened at 11:05 a.m.

Mayor Knight

Mayor Knight announced that no action was necessary as a result of the executive session.

ADJOURNMENT

The City Council meeting adjourned at 11:05 a.m.

Pat Burnett CMC
City Clerk

Workshop - District Advisory Board Proposal